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Experian Information Solutions, Inc.*

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
BUTTE DIVISION

KEVIN THOMAS,

Plaintiff,

v.

EQUIFAX INFORMATION
SERVICES, LLC; TRANS UNION
LLC; EXPERIAN INFORMATION
SOLUTIONS, INC.; BLUESTEM
BRANDS, INC., WEBBANK; META
FINANCIAL GROUP, INC.; and
MAIN STREET ACQUISITION
CORP.,

Defendants.

CV 14-13-BU-SEH

DEFENDANT EXPERIAN
INFORMATION SOLUTIONS,
INC.'S ANSWER TO COMPLAINT
AND DEMAND FOR JURY TRIAL

Defendant Experian Information Solutions, Inc. ("Experian"), by and through its undersigned counsel, and in answer to the Complaint of Plaintiff Kevin Thomas ("Plaintiff"), states as follows: Plaintiffs' Complaint purports to state

claims under the Fair Credit Reporting Act (“FCRA”). Experian admits that the Complaint seeks damages. Experian denies that it has violated the FCRA, Experian further denies that it is liable to Plaintiff for any alleged damages.

RESPONSE TO VENUE AND JURISDICTION

1. In response to Paragraph 1 of the Complaint, Experian admits subject matter jurisdiction exists under 15 U.S.C. § 1681(p).

2. In response to Paragraph 2 of the Complaint, Experian admits that venue in this district is proper pursuant to 28 U.S.C. §§ 1391(b). As to the remaining allegations, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 2 and, on that basis, denies the same.

RESPONSE TO PARTIES

3. In response to Paragraph 3 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 3 and, on that basis, denies the same.

4. In response to Paragraph 4 of the Complaint, Experian admits that Equifax Information Services, LLC (“Equifax”) is a consumer reporting agency as defined by 15 U.S.C. § 1681a(f).

5. In response to Paragraph 5 of the Complaint, Experian admits that Trans Union LLC (“Trans Union”) is a consumer reporting agency as defined by 15 U.S.C. § 1681a(f).

6. In response to Paragraph 6 of the Complaint, Experian admits that it is a consumer reporting agency as defined by 15 U.S.C. § 1681a(f). Experian further admits that it is an Ohio corporation, with its principal place of business in Costa Mesa, California. Experian further admits that it is qualified to do business and does conduct business in the State of Montana.

7. In response to Paragraph 7 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 7 and, on that basis, denies the same.

8. In response to Paragraph 8 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 8 and, on that basis, denies the same.

9. In response to Paragraph 9 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 9 and, on that basis, denies the same.

10. In response to Paragraph 10 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 10 and, on that basis, denies the same.

RESPONSE TO FACTUAL ALLEGATIONS

11. In response to Paragraph 11 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the same.

12. In response to Paragraph 12 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. The statute speaks for itself. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the same.

13. In response to Paragraph 13 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. The statute speaks for itself. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the same.

14. In response to Paragraph 14 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. The statute speaks for itself. To the extent a response is required, Experian is without

knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the same.

15. In response to Paragraph 15 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. The statute speaks for itself. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the same.

16. In response to Paragraph 16 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 16 and, on that basis, denies the same.

17. In response to Paragraph 17 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 17 and, on that basis, denies the same.

18. In response to Paragraph 18 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 18 and, on that basis, denies the same.

19. In response to Paragraph 19 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 19 and, on that basis, denies the same.

20. In response to Paragraph 20 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 20 and, on that basis, denies the same.

21. In response to Paragraph 21 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 21 and, on that basis, denies the same.

22. In response to Paragraph 22 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 22 and, on that basis, denies the same.

23. In response to Paragraph 23 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 23 and, on that basis, denies the same.

RESPONSE TO CAUSES OF ACTION AGAINST DEFENDANT EQUIFAX

Response to Count One-Negligent Noncompliance with the FCRA

24. In response to paragraph 24 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 23 above, as though fully set forth herein.

25. In response to Paragraph 25 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 25 and, on that basis, denies the same.

26. In response to Paragraph 26 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the same.

27. In response to Paragraph 27 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the same.

**Response to Count Two
Willful Noncompliance with the FCRA**

28. In response to Paragraph 28 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 27 above, as though fully set forth herein.

29. In response to Paragraph 29 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 29 and, on that basis, denies the same.

30. In response to Paragraph 30 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information

sufficient to form a belief as to the truth of the allegations and, on that basis, denies the same.

31. In response to Paragraph 31 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies the same.

RESPONSE TO CAUSES OF ACTION AGAINST
DEFENDANT TRANS UNION

Response to Count Three-Negligent Noncompliance with the FCRA

32. In response to Paragraph 32 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 31 above, as though fully set forth herein.

33. In response to Paragraph 33 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 33 and, on that basis, denies the same.

34. In response to Paragraph 34 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

35. In response to Paragraph 35 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

**Response to Count Four
Willful Noncompliance with the FCRA**

36. In response to Paragraph 36 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 35 above, as though fully set forth herein.

37. In response to Paragraph 37 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 37 and, on that basis, denies the same.

38. In response to Paragraph 38 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

39. In response to Paragraph 39 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

RESPONSE TO CAUSES OF ACTION
AGAINST DEFENDANT EXPERIAN

Response to Count Five-Negligent Noncompliance with the FCA

40. In response to Paragraph 40 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 39 above, as though fully set forth herein.

41. In response to paragraph 41 of the Complaint, Experian denies each and every allegation addressed to it.

42. In response to Paragraph 42 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief, and therefore denies the allegations.

43. In response to Paragraph 43 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief, and therefore denies the allegations.

Response to Count Six
Willful Noncompliance with the FCRA

44. In response to Paragraph 44 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 43 above, as though fully set forth herein.

45. In response to Paragraph 45 of the Complaint, Experian denies each and every allegation addressed to it.

46. In response to Paragraph 46 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief, and therefore denies the allegations.

47. In response to Paragraph 47 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief, and therefore denies the allegations.

**RESPONSE TO CAUSES OF ACTION
AGAINST DEFENDANT FINGERHUT**

Response to Count Seven-Negligent Noncompliance with the FCRA

48. In response to Paragraph 48 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 47 above, as though fully set forth herein.

49. In response to paragraph 49 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 49 and, on that basis, denies the same.

50. In response to paragraph 50 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the

extent a response is required, Experian is without knowledge or information sufficient to form a belief.

51. In response to paragraph 51 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

**Response to Count Eight
Willful Noncompliance with the FCRA**

52. In response to Paragraph 52 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 51 above, as though fully set forth herein.

53. In response to paragraph 53 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 53 and, on that basis, denies the same.

54. In response to paragraph 54 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

55. In response to paragraph 55 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the

extent a response is required, Experian is without knowledge or information sufficient to form a belief.

RESPONSE TO CAUSES OF ACTION
AGAINST DEFENDANT WEBBANK

Response to Count Nine-Negligent Noncompliance with the FCRA

56. In response to Paragraph 56 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 55 above, as though fully set forth herein.

57. In response to Paragraph 57 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 57 and, on that basis, denies the same.

58. In response to Paragraph 58 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

59. In response to Paragraph 59 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

Count Ten
Willful Noncompliance with the FCRA

60. In response to Paragraph 60 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 59 above, as though fully set forth herein.

61. In response to paragraph 61 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 61 and, on that basis, denies the same.

62. In response to paragraph 62 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

63. In response to paragraph 63 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

RESPONSE TO CAUSES OF ACTION
AGAINST DEFENDANT METABANK

Count Eleven-Negligent Noncompliance with the FCRA

64. In response to paragraph 64 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 63 above, as though fully set forth herein.

65. In response to paragraph 65 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 65 and, on that basis, denies the same.

66. In response to paragraph 66 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

67. In response to paragraph 67 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

Count Twelve
Willful Noncompliance with the FCRA

68. In response to paragraph 68 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 67 above, as though fully set forth herein.

69. In response to paragraph 69 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 69 and, on that basis, denies the same.

70. In response to paragraph 70 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

71. In response to paragraph 71 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

RESPONSE TO CAUSES OF ACTION
AGAINST DEFENDANT MAIN STREET

Count Thirteen-Negligent Noncompliance with the FCRA

72. In response to paragraph 72 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 71 above, as though fully set forth herein.

73. In response to paragraph 73 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 73 and, on that basis, denies the same.

74. In response to paragraph 74 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

75. In response to paragraph 75 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

Count Fourteen
Willful Noncompliance with the FCRA

76. In response to paragraph 76 of the Complaint, Experian incorporates by reference its answers to Paragraphs 1 through 75 above, as though fully set forth herein.

77. In response to paragraph 77 of the Complaint, Experian does not have knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 77 and, on that basis, denies the same.

78. In response to paragraph 78 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

79. In response to paragraph 79 of the Complaint, Experian states that these are legal conclusions which are not subject to denial or admission. To the extent a response is required, Experian is without knowledge or information sufficient to form a belief.

RESPONSE TO PRAYER FOR RELIEF

In response to Plaintiff's prayer for relief and demand for judgment, Experian denies generally and specifically, each and every allegation contained therein, and denies that Plaintiff is entitled to any of the relief set forth in his prayer for relief.

RESPONSE TO DEMAND FOR JURY TRIAL

In response to Plaintiff's demand for jury trial, Experian admits that Plaintiff has demanded trial by jury on all issues triable.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE (Truth/Accuracy of Information)

Experian is informed and believes, and thereon alleges, that Plaintiff's claims against Experian are barred, in whole or in part, because all information Experian communicated to any third person regarding Plaintiffs is true.

SECOND AFFIRMATIVE DEFENSE (Indemnification)

Experian is informed and believes, and thereon alleges, that any purported damages allegedly suffered by Plaintiff are the result of the acts or omissions of third persons over whom Experian had neither control nor responsibility.

THIRD AFFIRMATIVE DEFENSE (Contributory/Comparative Fault)

Experian is informed and believes, and thereon alleges, that any alleged damages sustained by Plaintiff were, at least in part, caused by actions of Plaintiff and/or third parties, and resulted from Plaintiff's or third parties' own negligence, which equaled or exceeded any alleged negligence or wrongdoing by Experian.

FOURTH AFFIRMATIVE DEFENSE
(Improper Request for Punitive Damages)

Plaintiff's Complaint does not allege facts sufficient to rise to the level of conduct required to recover punitive damages, and thus all requests for punitive damages are improper.

FIFTH AFFIRMATIVE DEFENSE
(Immunity)

All FCRA claims against Experian are barred by the qualified immunity of 15 U.S.C. § 1681h(e).

PRAYER FOR RELIEF

WHEREFORE, defendant Experian Information Solutions, Inc. prays as follows:

- (1) That Plaintiff take nothing by virtue of the Complaint herein and that this action be dismissed in its entirety;
- (2) For costs of suit and attorneys' fees herein incurred; and
- (3) For such other and further relief that this Court may deem necessary and proper.

DATED this 23rd day of April, 2014.

/s/ Thomas J. Leonard

Thomas J. Leonard
BOONE KARLBERG P.C.

*Attorneys for Defendant Experian
Information Solutions, Inc.*